Law Catalogue User Guide

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A. Introduction to the Law Catalogue

The law catalogue provides the Joint Nature Conservation Committee (JNCC) and the UK country nature conservation bodies with accessible and summarised information on environmental case law relating to the EU Habitats Directive and the EU Birds Directive. Case law coverage is from both courts in the UK and the Court of Justice of the European Union (CJEU).

An extensive search of UK and European case law was carried out in February 2014 using the following legal databases: Westlaw, Lexis Library, Lawtel and Curia. This search was updated using the same databases in February 2015.

The current version of the catalogue (i.e. version 2.0) includes cases returned by that search which specifically include reference to the Habitats Directive (Articles 1-7 and 9-16) and the Birds Directive (Articles 1-9).

There are some cases that have been excluded from the catalogue on the basis that they are not relevant. This has been done where, for example only passing

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reference is made to the Habitats and Birds Directive, or the reference to the Directives is only made in relation to a procedural point.

Cases where there is no transcript, or the decisions are not available in English have also been excluded.

There is an Excel spreadsheet which identifies the details of those cases that haven't been included, and this can be requested from the JNCC.

The JNCC will where possible keep the database up to date with new cases. The catalogue version reference will indicate when the catalogue was last updated.

The catalogue summarises the relevant cases identified by the search, creating an entry for each case which sets out the key information, facts of the case and eventual outcomes.

These summaries are produced in plain English, aiming to be free of legal jargon.

The result is that users of the catalogue will not need a legal background to draw out relevant information. The use of the catalogue, as opposed to a legal search engine or database, also means that the user does not have to search through large volumes of irrelevant and unrelated cases to draw out relevant principles.

The catalogue allows users to search for entries in a variety of ways to allow relevant information to be pulled out. Details of how to search the catalogue are included within this guide in section D.

This guide also contains a glossary of the most relevant words and phrases that are found in cases relating to the Habitats and Birds Directives. This can be found in section E.

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B. General Points and Limitations

- The Catalogue has been created on MS Access 2000. Users will need this or a later version of MS Access installed to view the catalogue. When opening the database a security warning will pop up and you will need to enable macros.

- As the first stage of catalogue production has only included cases that make specific reference to the Habitats Directive (Articles 1-7 and 9-16) and the Birds Directive (Articles 1-9), users need to be aware that there may be relevant and important cases that have not been included in this version of the catalogue. An example of this is where cases refer to national legislation, as opposed to the Directive Article that the national legislation has been transposed from.

- The catalogue does not constitute legal advice, and reading the summaries alone is not a substitute for reading the full case details and reasoning of decision makers. The catalogue aims to provide its users with 'sign-posts' to relevant cases and decisions that may help them in their day-to-day work.

- The summaries have been produced by legal librarians, and not environmental legal specialists. Input has been provided by specialists, but quality control on the catalogue has been carried out by the legal librarians. As such whilst the summaries reflect the overall principles of any given case, there is a possibility that relevant environmental law principles are not fully drawn out from the case summary. The catalogue does not identify which are the key or landmark cases in a given field or area. As set out above, the full judgments should be considered, and separate legal advice taken if required.

- A search for a particular country, habitat or species should not be taken as providing the whole picture on a particular subject. Relevant binding principles can be established in cases which do not refer to that particular country, habitat or species.

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- Advocate-General opinions are just that, opinions, and not decisions of the Court. They may be relevant to consider, but do not have binding weight.

- Where a case is overturned on appeal (for example a decision of the High Court is overturned by the Court of Appeal) it will be removed from the database. In most cases it is expected that the decision that overturns the case will be relevant to the database, and so will then be included within the catalogue.

- The catalogue includes a 'Traffic Light System' as identified in the Overturned Status box to indicate how the points of law within the case have been treated by subsequent cases. This adopts a Green, Amber, Red and None status system. The full description of each status is set out in the Field Headings section of this guide. This has been included as once a case has been decided, future cases may then reference the principles of law established in that case.

- Courts may agree, disagree, be neutral or distinguish points of law that have been established in past cases. It is important to note that this does not mean that every point of law within that case has been dealt with in the way identified in the traffic light system. It is important to read the judgments of these subsequent cases so that the significance and context of the point that was discussed can be properly assessed.

- It is important to note, that the Courts approaches to cases will vary on the facts of each case, and may develop over time. This will not always result in a case being specifically overturned, and so users need to take into account all case law on a relevant point.

- No more than one case screen can be opened at a time. If a new case is opened, this will replace the original case on the screen.

- All references to Directive Articles within case summaries are set out as "art.[x]". When searching for specific article directives using the case search box, the user will need to enter the full reference (e.g. "art.6(4)") or partial searches (e.g "art.6" or "6(4)").

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- The case search box interrogates all text fields and allows for searches using AND and OR functions. The search is not case sensitive but cannot account for spelling errors, including accents.

- The case search box does not allow the user to refine searches by date period. However once a search result is returned, the user can order the results by date by clicking on the heading "Judgment Date".

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C. Background

The Court of Justice of the European Union (CJEU) ensures that the interpretation and application of European Union (EU) law is observed by all Member States and applied uniformly across the EU. In particular the Court answers questions referred to it by national courts and tribunals (so called reference for a preliminary ruling) which play a vital role by applying EU law at a local level. The case law of the CJEU makes up – together with the treaties, regulations, directives and decisions – European Union law. Since its creation (in 1957) and until 2009, the Court has dealt with approximately 14,904 cases, many of them are cases relating to the Union's environmental *acquis*.[1]

The Habitats Directive[2] and Birds Directive[3], together known as the Nature Directives, form the cornerstone of Europe's nature conservation policy. They are built around two pillars: the Natura 2000 network of protected sites and the strict system of species protection. All in all the Habitats Directive seeks to protect over 1,000 animal and plant species and over 200 so called "habitat types" (e.g. special types of forests, meadows, wetlands, etc.), which are of European importance. The Birds Directive protects all naturally occurring wild birds in the EU.

The main aim of the Nature Directives is to promote the maintenance of biodiversity by requiring Member States to take measures to maintain, restore and protect natural habitats and wild species listed on the Annexes to the Directives, introducing robust protection for those habitats and species. In applying these measures Member States may take account of economic, social and cultural requirements, as well as regional and local characteristics.

Many provisions of the Directives have been litigated, especially in situations where economic development has potential impacts on nature conservation measures (e.g. industrial developments in and around protected sites). These situations have

[1] The *acquis* also called *acquis communautaire* is the body of EU legislation which makes up European Union law. The environmental *acquis* is the body of legislation which makes up EU environmental law.

[2] Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

[3] Directive 2009/147/EC of the European Parliament and the Council of 30 November 2009 on the conservation of wild birds.

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given rise to a number of legal cases which have occupied national courts or have been referred to the CJEU for clarification. These judgements are of direct relevance to the work of JNCC and the country nature conservation bodies as they provide advice on the application of the Habitats and Birds Directives.

The application of the Habitats Directive beyond territorial waters (in the offshore environment) was only confirmed by the CJEU in 2005[4]. Thus, there is very limited case law available dealing with implementation in the offshore environment.

[4] European Court of Justice Case C-6/04 Commission v United Kingdom, 20 October 2005.

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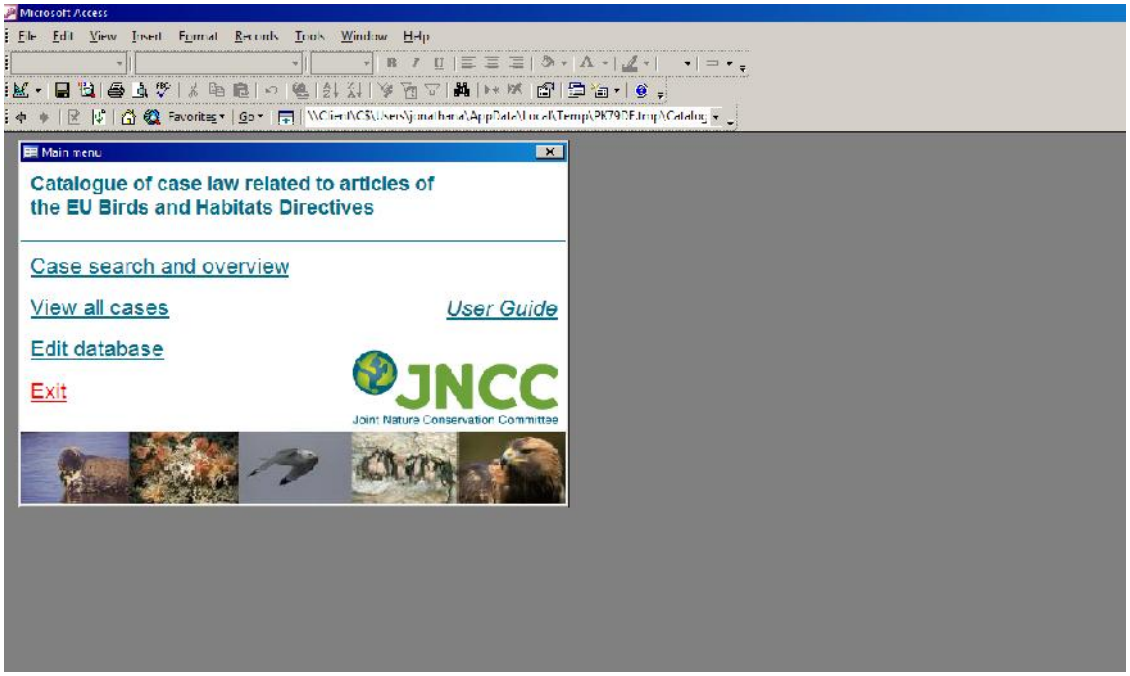
D. Using the catalogue

Start Up Screen


Microsoft Access
File Edit View Insert Format Records Tools Window Help
Main menu
Catalogue of case law related to articles of the EU Birds and Habitats Directives
Case search and overview
View all cases
User Guide
Edit database
Exit
JNCC
Joint Nature Conservation Committee

When you open the catalogue the first screen the user sees is the Main Menu which has five options. These are:

- Case search and overview
- View all cases
- Edit database
- Exit
- *User Guide*

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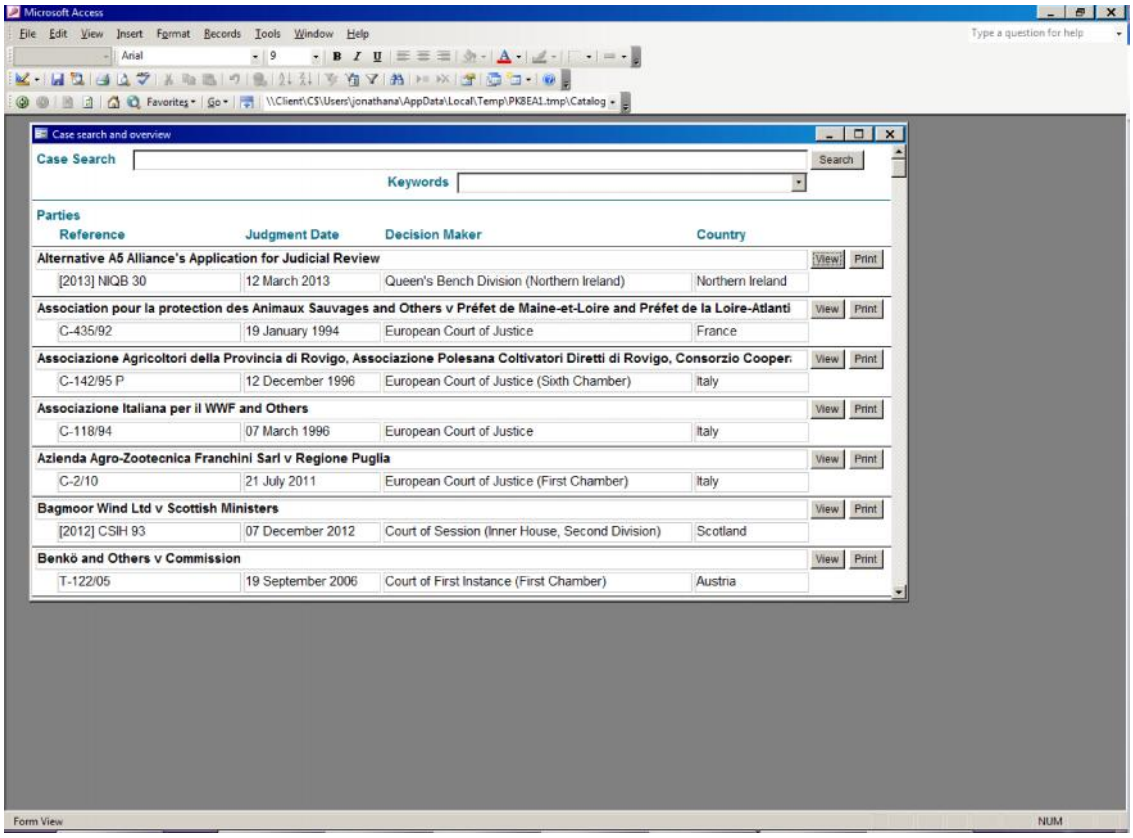
1. Case search and overview

Clicking on 'Case search and overview' opens the catalogue in a searchable format shown below:



On first opening the search screen, all the cases within the catalogue will be loaded.

Features

Case Search box: This is a free text box that allows the user to search for terms they are looking for within the catalogue. The search facility interrogates all text fields and also includes the tick box feature in relation to the Habitats Directive and Birds Directive. The case search box allows for searches using AND and OR functions. For example if the user wanted to search for all cases entered into the catalogue with reference to Portugal, they would enter the word 'Portugal' in the case search box and click the

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'search' button. The page will then refresh and show all cases that contain the word Portugal in any of the fields. This type of search will not restrict the word search for example to the Country field – it is across all fields in the catalogue.

The search is not case sensitive and does not have to be for whole words, the search will also return part word searches – e.g "Portug" would still work as a search.

However the search is character sensitive. This means that it will not return search phrases were, for example, accents have been missed off (e.g. if searching for Basses Corbières, the relevant accent must be included). To insert special characters such as accents these can be copied from "Character Map" which is a feature of the Windows operating system.

The case search box allows the user to enter in multiple words as part of the search. This is done by inserting the word **'and'** between each required word. For example, entering "Portugal and habitats directive" will return all case entries that simultaneously contain the words Portugal and habitats directive, or contain the word Portugal and have the Habitats Directive box ticked.

The function can be used to search for more than two words by entering 'and' in between the search terms, for example 'Portugal and habitats directive and article 6 and priority species'.

The search also contains an **'or'** function. This allows the user to search for alternative options, for example entering the search 'Portugal or birds directive' would return all the cases that contained the word Portugal and all the cases that contained the word birds directive, as

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well as all the cases that have the Birds Directive box ticked.

Keywords:

The keywords box in the top right of the screen allows the user to scroll through and select from the keywords that have been identified as part of the catalogue (i.e. most relevant words and phrases found in cases relating to the Habitats and Birds Directives). These are the keywords which are defined in the Glossary within this guide.

The user should click on the drop down menu which brings up the list of keywords, and select the relevant word from the list. The user should not try and type in words manually into the keyword box.

When the user selects a keyword this will automatically be populated into the 'Case Search' box.

The user can then click on the 'keywords' list again and select another word and this will automatically enter into the 'Case Search' box, separated by 'AND' which allows the search to return entries with both words. The user can manually replace the AND for an OR if they want to search for all the cases containing each individual word instead.

Scroll bar:

The scroll bar on the right hand side of the screen allows the user to scroll through all the cases found in any particular search.

Clicking on the scroll bar shows a pop up highlighting how many cases there are within a particular search: i.e. "record: 1 of 141".

Please note that this shows the uppermost record that is being displayed on the screen.

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Sorting:

The cases returned by any search can be sorted by the headings at the top of the screen - Parties, Reference, Judgement Date, Decision Maker, Country.

When sorting by heading, this is sorted in the following order:

1. special character;
2. numeric;
3. alphabetical.

Print:

To view any case returned by the search in a print friendly format, the user should click on the 'Print' button which is to the right of each individual case.

This opens up a new screen with the case set out, automatically spread across the pages to ensure that all the details of the case are printed.

This page can then be printed by clicking on "File" and then "Print" in the Access toolbar in the usual way.

This screen does not allow the user to highlight and copy text. If this is required, the user should use the view function as set out below.

View:

Once the user has made the relevant search, the cases can be viewed by selecting the 'View' button on the right hand side of each case.

On clicking 'View' the particular case is opened in a new screen in the following format:

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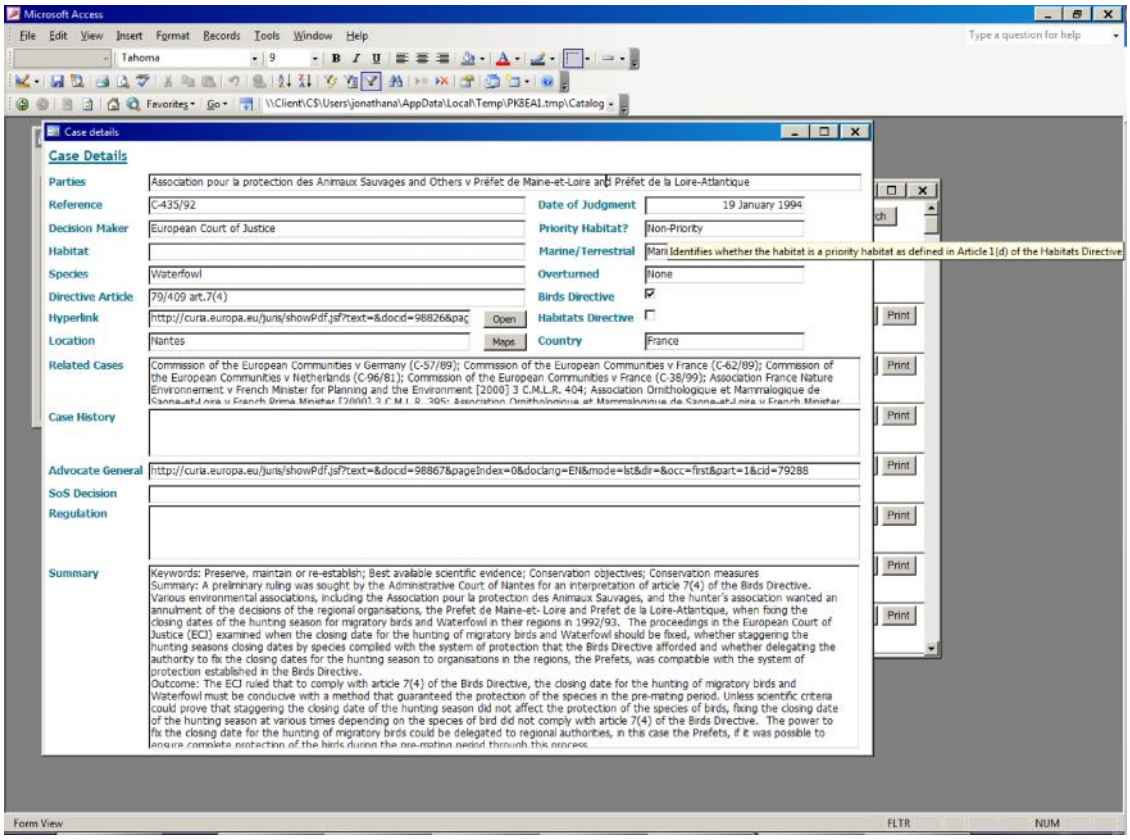
Microsoft Access
File Edit View Insert Format Records Tools Window Help
Case details
Case Details
Parties
Association pour la protection des Animaux Sauvages and Others v Préfet de Maine-et-Loire and Préfet de la Loire-Atlantique
Reference
C-435/92
Date of Judgment
19 January 1994
Decision Maker
European Court of Justice
Priority Habitat?
Non-Priority
Habitat
Marine/Terrestrial
Species
Waterfowl
Overturned
None
Directive Article
79/409 art.7(4)
Birds Directive
Hyperlink
http://curia.europa.eu/juris/showPdf.jsf?text=&docid=98826&pac
Open
Habitats Directive
Location
Nantes
Maps
Country
France
Related Cases
Commission of the European Communities v Germany (C-57/89); Commission of the European Communities v France (C-62/89); Commission of the European Communities v Netherlands (C-96/81); Commission of the European Communities v France (C-38/99); Association France Nature Environnement v French Minister for Planning and the Environment [2000] 3 C.M.L.R. 404; Association Ornithologique et Mammalogique de
Case History
Advocate General
http://curia.europa.eu/juris/showPdf.jsf?text=&docid=98867&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=79288
SoS Decision
Regulation
Summary
Keywords: Preserve, maintain or re-establish; Best available scientific evidence; Conservation objectives; Conservation measures
Summary: A preliminary ruling was sought by the Administrative Court of Nantes for an interpretation of article 7(4) of the Birds Directive.
Various environmental associations, including the Association pour la protection des Animaux Sauvages, and the hunter's association wanted an annulment of the decisions of the regional organisations, the Prefet de Maine-et- Loire and Prefet de la Loire-Atlantique, when fixing the closing dates of the hunting season for migratory birds and Waterfowl in their regions in 1992/93. The proceedings in the European Court of Justice (ECJ) examined when the closing date for the hunting of migratory birds and Waterfowl should be fixed, whether staggering the hunting seasons closing dates by species complied with the system of protection that the Birds Directive afforded and whether delegating the authority to fix the closing dates for the hunting season to organisations in the regions, the Prefets, was compatible with the system of protection established in the Birds Directive.
Outcome: The ECJ ruled that to comply with article 7(4) of the Birds Directive, the closing date for the hunting of migratory birds and Waterfowl must be conducive with a method that guaranteed the protection of the species in the pre-mating period. Unless scientific criteria could prove that staggering the closing date of the hunting season did not affect the protection of the species of birds, fixing the closing date of the hunting season at various times depending on the species of bird did not comply with article 7(4) of the Birds Directive. The power to fix the closing date for the hunting of migratory birds could be delegated to regional authorities, in this case the Prefets, if it was possible to
Mari Identifies whether the habitat is a priority habitat as defined in Article 1(d) of the Habitats Directive
Print
Form View
FLTR
NUM

Field Headings: The explanation of each field heading can be found by hovering over the particular heading, which will then show a pop-up explanation.

The explanations for the headings are as follows:

- Parties: the parties bringing or defending the case, and any officially named interested parties
- Reference: the unique reference allocated to a case by the courts
- Judgment Date: the date the official decision is made by the court
- Decision Maker: the judicial body that decides the case
- Country: the country in which the decision relates to

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- Habitat: references details of habitats that are included as part of the judgment (this is as specifically referenced in the judgment which may not always use the official Annex I habitat names)

- Species: references details of species that are included as part of the judgment (this is as specifically referenced in the judgment which may not always use the official Annex II, IV or V species names)

- Priority Habitat: identifies whether the habitat is a priority habitat as defined in Article 1(d) of the Habitats Directive

- Marine or Terrestrial: Indicates whether the decision relates to a species or habitat that is terrestrial, or, marine based

- Directive Article: indicates the most relevant articles of the Birds Directive or Habitats Directive that are referred to in the case

- Hyperlink: provides a link to the judgment where this is freely available online. The 'open' button on the right hand side opens the hyperlink to an internet page showing a written version of the case

- Overturned Status: indicates how the points of law within the case have been treated by subsequent cases:
    - Green: Indicates that there are points of law in the case that have been given positive or neutral treatment in subsequent cases
    - Amber: Indicates that there are points of law in the case that have been given mixed or mildly negative treatment in subsequent cases
    - Red: Indicates that at least one point of law in the case has been overruled or reversed
    - None: Indicates that there has been no positive or negative treatment by subsequent cases on the points of law established in this case

- Location: sets out the location of the site, habitat or species in question where available/relevant

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- Birds Directive: indicates if the decision is made under the Birds Directive

- Habitats Directive: indicates if the decision is made under the Habitats Directive

- Related Cases: sets out relevant Habitats and Birds Directive cases that are referred to as part of the judgment

- Case History: sets out the history of the case where decisions have been made by lower courts e.g. setting out High Court, and Court of Appeal decisions if the case is a Supreme Court case

- Advocate General: Sets out the link to the decision of the advocate general in the case, where this is available

- SoS Decision: Sets out the link to the decision of the Secretary of State in the case where relevant and available

- Regulation: sets out the relevant UK regulations referred to as part of the decision

- Maps: provides a link to a Google Map of the area where possible. On clicking the 'maps' button the search terms within the location field are entered into Google Maps and will show the location where these search terms are recognised by Google

- Summary: Sets out a plain English summary of the case. The details included are:
    - Keywords – keywords relevant to the case
    - Summary – summary of main facts and issues
    - Outcome – decision made by the court
    - Status – where one party has applied for permission to appeal and been granted leave to appeal but that appeal has not been heard this has been noted as: "[x] has been given permission to appeal to the Court of Appeal" or similar. Where a party has applied for leave to appeal but permission has not been yet been granted or refused,

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this is has been noted as: "[x] has applied for permission to appeal to the Court of Appeal" or similar.

- Judge – judge(s) who made the decision

Where the text of the summary is too long to fit entirely within the box on the screen, the user can click on the text box at which point a scroll bar will appear on the right hand side of the box.

Printing: Printing cannot be carried out from this page. If the user needs to print the case details, a print friendly version can be accessed from the 'Print' button on the case search overview page as set out above

Copying Text: Text within the case details page can be highlighted and copied. However it cannot be edited

2. View all cases

From the Main Menu screen of the catalogue the user can click on the 'View all cases' link which opens up a new screen as follows:

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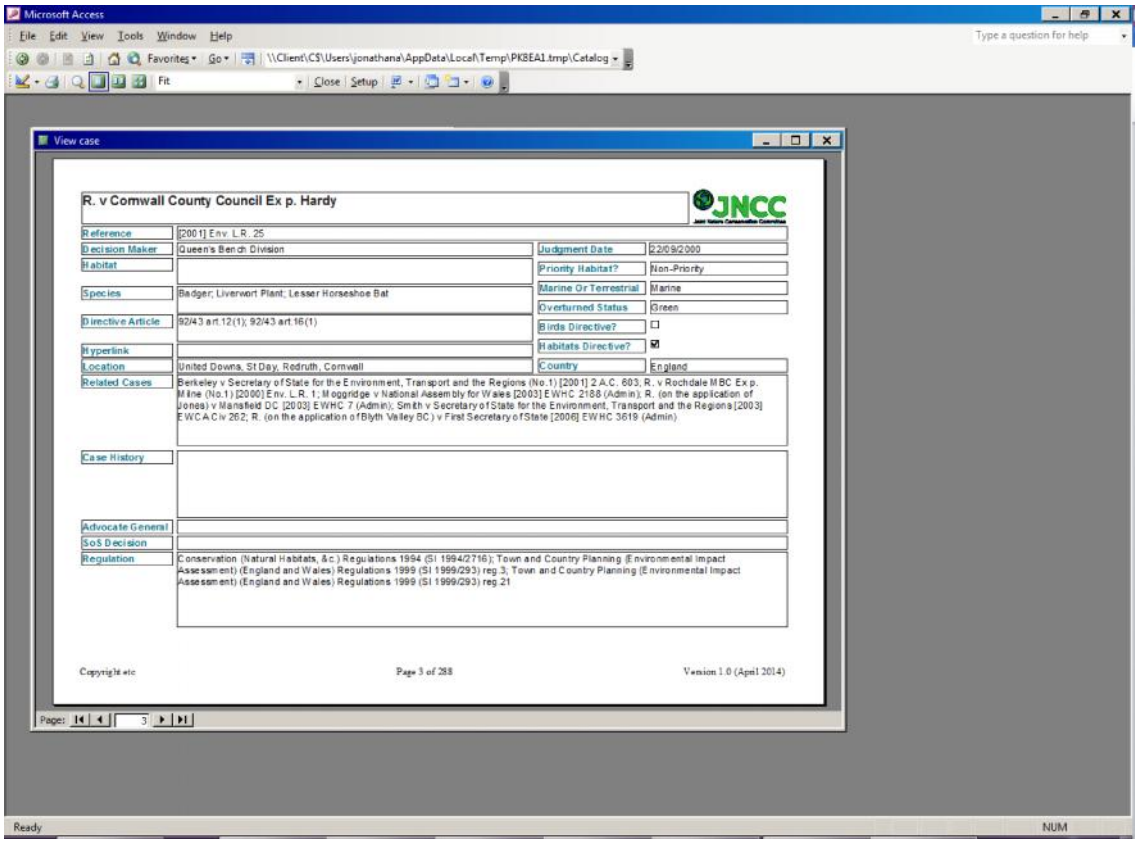
Microsoft Access
File Edit View Tools Window Help
View case
R. v Cornwall County Council Ex p. Hardy
JNCC
Reference
[2001] Env. L.R. 25
Decision Maker
Queen's Bench Division
Judgment Date
22/09/2000
Habitat
Priority Habitat?
Non-Priority
Species
Badger; Liverwort Plant; Lesser Horseshoe Bat
Marine Or Terrestrial
Marine
Overturned Status
Green
Directive Article
92/43 art.12(1); 92/43 art.16(1)
Birds Directive?
Habitats Directive?
Hyperlink
Location
United Downs, St Day, Redruth, Cornwall
Country
England
Related Cases
Berkeley v Secretary of State for the Environment, Transport and the Regions (No.1) [2001] 2 A.C. 603; R. v Rochdale MBC Ex p. Milne (No.1) [2000] Env. L.R. 1; Moggridge v National Assembly for Wales [2003] EWHC 2188 (Admin); R. (on the application of Jones) v Mansfield DC [2003] EWHC 7 (Admin); Smith v Secretary of State for the Environment, Transport and the Regions [2003] EWCA Civ 262; R. (on the application of Blyth Valley BC) v First Secretary of State [2006] EWHC 3619 (Admin)
Case History
Advocate General
SoS Decision
Regulation
Conservation (Natural Habitats, &c.) Regulations 1994 (SI 1994/2716); Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999/293) reg.3; Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999/293) reg.21
Copyright etc
Page 3 of 288
Version 1.0 (April 2014)
Page:
Ready
NUM

This is a print friendly screen of **all** cases that are within the catalogue.

This allows the user to easily print out all cases if required. To print the user should click on 'file' on the toolbar menu and 'print'.

The cases on the screen page can be scrolled through using the page arrows in the bottom left hand corner. The user can also enter a number to go directly that that page.

3. Edit Database

This function allows editing of the database. No editing should be carried out by general users.

Requests for amendments to be made should be directed by email to the JNCC Communications Team (communications@jncc.gov.uk).

4. Exit

From the main menu screen, clicking on Exit will close the catalogue.

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5. User Guide

This user guide can be accessed within the database by clicking on the User Guide link on the main menu.

This will prompt a warning message indicating that hyperlinks can be harmful. This warning is a feature of Access. On clicking the link the user will be taken to this guide.

E. Glossary of Keywords

Below is a glossary of the majority of keywords that have been identified as part of the Law Catalogue (i.e. most relevant words and phrases found in cases relating to the Habitats and Birds Directives). Keywords are identified within the case summaries and can be searched for as set out in part D (1) of the guide above.

Adverse effect on the integrity of a site (or 'site integrity')	As referred to at Art. 6(3) of the Habitats Directive. The effect relates not to every aspect of a particular site, but to the effect that would be had on the sites coherence with the Natura 2000 network. The integrity of a site is defined in the Managing Natura 2000 sites guidance as: *"the coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and/or populations of species for which the site is or will be classified"* Integrity is to be considered over the short, medium and long term.

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Alternative Solution	As referred to in Art. 6(4) of the Habitats Directive. It must be shown that there were no alternative solutions to a plan or project if a plan is to be carried out despite a likely adverse effect on a site. Managing Natura 2000 sites guidance sets out that "alternative locations (routes in case of linear developments), different scales or designs of development, or alternative processes. The 'zero-option' should be considered too."
Appropriate assessment	An assessment required under Art 6.(3) Habitats Directive where a plan or project not directly connected with or necessary to the management of the site is likely to have a significant effect upon a site either individually or combination with other projects The way an assessment must be carried out is not defined in the Habitats Directive. Managing Natura 2000 sites guidance sets out that it needs to be recorded and reasoned.
Area	As referred to in the Habitats Directive at Art. (1)(j) in relation to the defined limits of a site. "*site* means a geographically defined area whose extent is clearly delineated;"
Best available scientific evidence	In relation to identifying the most suitable areas to designate, member states must use the best available scientific evidence in fulfilling their obligations. This means member states making every reasonable effort to identify those areas. Commission v Austria (Case C-209/03)
Biodiversity 2020	A national strategy for England's wildlife and ecosystem services. It was first published by the Department for Environment, Farming and Rural Affairs in 2011 and sets out the government's ambition to halt overall loss of England's biodiversity by 2020.
Birds Directive	The EU Council Directive 2009/147/EC of 30th November 2009, on the conservation of wild birds (replacing Directive 79/409/EEC of 2nd April 1979). The Directive provides a framework for the conservation and management of, and human interactions with, wild birds in Europe. It sets broad objectives for a wide range of activities, although the precise legal mechanisms for their achievement are at the discretion of each Member State (in the UK delivery is via several different statutes). The Directive applies to the UK and to its overseas territory of

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	Gibraltar.
Compensatory measures	Measures taken under Art. 6(4) of the Habitats Directive to ensure that the overall coherence of the Natura 2000 network is protected. These measures are taken where a plan or project cannot rule out an adverse effect on the Integrity of the Site, but are to continue for imperative reasons of public interest. These are different to Mitigation Measures, and are independent of the Plan or Project.
Competent Authority	As defined in the Habitats Regulations 2010, means any Minister of the Crown or the Welsh Ministers (and the Scottish Ministers in relation to certain provisions as defined in the Regulations). Minister of the Crown includes any government department, statutory undertaker, public body (including local authority, joint board, joint committee or National Park authority).
Conservation measures	As defined in Art. 1(a) of the Habitats Directive: *"conservation* means a series of measures required to maintain or restore the natural habitats and the populations of species of wild fauna and flora at a favourable status as defined in (e) and (i);" And As referred to in Art. 4 of the Birds Directive: "The species mentioned in Annex I shall be the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution."
Conservation objectives	Referred to at Art. 6(3) of the Habitats Directive. *"Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's* ***conservation objectives****"* The wording of the directive refers to the conservation objectives in the context of the sites features. In practice the UK Statutory Nature Conservation Bodies have adopted the approach of applying conservation objectives at feature level.

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	The necessary conservation measures aim at maintaining or restoring the favourable conservation status of the natural habitat types and the species of Community interest. They are connected with the general objective of the directive which applies to the Natura 2000 network, as defined in Article 3 of the Habitats Directive
Core Strategy	The key compulsory local development document specified in United Kingdom planning law. Every other local development document is built on the principles it sets out, regarding the development and use of land in a local planning authority's area.
Cumulative impact	The cumulative impact of other plans and projects that should be taken into account when assessing whether there is a Likely Significant Effect as referred to at Art. 6(3) of the Habitats Directive. Natura 2000 Guidance sets out that: *"When determining likely significant effects, the combination of other plans or projects should also be considered to take account of cumulative impacts."*
Declassification	As referred to in the case of *Casina Tre Pini Ss v Ministeria dell'Ambiente e della Tutela del Territorio e le Mare and Others (C-301/12)* and meaning whereby national authorities are required, at the request of an owner of land included in a Site of Community Importance (SCI), to propose to the Commission the **declassification** of the SCI, where that site, following environmental degradation and despite compliance with the directive, can no longer definitively contribute to the conservation of natural habitats and species.
Derogation	As referred to in Art. 9 of the Birds Directive, in relation to the ability to derogate from the provisions of Art.s 5, 6, 7 and 8 under specified conditions in Art. 9 AND As referred to at Art. 16 of the Habitats Directive, in relation to the ability to derogate from Art. 12,13,14, 15(a) & (b) under specified conditions as set out in Art. 16.
Deterioration of habitats outside sites	As referred to in the Birds Directive Art. 4(4) in relation to the duty for Member States to *"strive to avoid pollution or deterioration of habitats"* outside of protected areas. But note Art. 7 of the Habitats Directive which applies Art. 6(2),(3) and (4) of the Habitats Directive which replaces the obligations in Art. 4(4) of the Birds Directive.

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Disturbance	As referred to in both the Habitats and Birds Directive in relation to the disturbance of natural habitats and species.
Ecological coherence	The ecological coherence of the Natura 2000 network as referred to at Art. 3(3) of the Habitats Directive. *"3. Where they consider it necessary, Member States shall endeavour to improve the* ***ecological coherence*** *of Natura 2000 by maintaining, and where appropriate developing, features of the landscape which are of major importance for wild fauna and flora, as referred to in Article 10."*
European Site	Defined in Regulation 8 of the Habitats Regulations 2010. Includes Special Protection Areas, Special Areas of Conservation and Sites of Community Importance.
European Protected Species	Species that are provided with protection as defined in the Habitats Regulations 2010. Regulation 40 provides that: *(1) Schedule 2 (European protected species of animals) lists those species of animals listed in Annex IV(a) to the Habitats Directive which have a natural range which includes any area in Great Britain.* Regulation 45 provides that: *(1) Schedule 5 (European protected species of plants) lists those species of plants listed in Annex IV(b) to the Habitats Directive which have a natural range which includes any area in Great Britain.*
Favourable conservation status	• *Conservation status of a natural habitat a*s defined in Art 1 (e) of the Habitats Directive: *"means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2* *the conservation status of a natural habitat will be taken as 'favourable' when:* - *its natural range and areas it covers within that range are stable or increasing, and* - *the specific structure and functions which are necessary*

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	for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and - *the conservation status of its typical species is favourable as defined in (i);"* • *Conservation status of a species* as defined in Art 1 (i) of the Habitats Directive: "*means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the territory referred to in Article 2;* *The conservation status will be taken as 'favourable' when:* - *population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and* - *the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and* - *there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis;"*
Geographical distribution	The geographical distribution of bird species as referred to in the Birds Directive at Art. 6, 7 and Annex V.
Habitat of a species	As defined in Art. 1 (f) of the Habitats Directive: *"means an environment defined by specific abiotic and biotic factors, in which the species lives at any stage of its biological cycle;"*
Habitats Directive	EU Council Directive 92/43/EEC of 1st May 1992 on the conservation of natural habitats and of wild fauna and flora. The main aim of the Habitats Directive is to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species listed on the Annexes to the Directive at a favourable conservation status, introducing robust protection for those habitats and species of European importance. In applying these measures Member States are required to take account of economic, social and cultural requirements, as well as regional and local characteristics. The Directive applies to the UK and to its Overseas Territory of Gibraltar.
Habitats Regulations	Conservation of Habitats and Species Regulations 2010 (SI 2010 No 490). The main purpose of the regulations is to transpose the Habitats

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	Directive into UK law. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
Imperative reasons of overriding public interest	As referred to at in Art. 6(4) of the Habitats Directive. The reasons can include those social or economic in nature. But projects that lie entirely In the interest of companies or individuals would not be considered to be covered. *"4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for **imperative reasons of overriding public interest**, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. […]."*
Important Birds Area 2000	The programmes run by BirdLife International to identify, monitor and protect a global network of Important Bird Areas for the conservation of the world's birds and other wildlife.
In combination	As referred to in Art. 6(3) of the Habitats Directive. Whether a plan or project is likely to have significant effect on the site is to be considered alone, or, *in combination* with other plans or projects. *6(3) "Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or **in combination** with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives […]."*
In-combination effects	As referred to above. At both the screening (for likely significant effects) and appropriate assessment stages, the effects of a plan or project must be considered both individually and in combination with other relevant plans or projects. This is a requirement of the Habitats Directive which helps ensure that European sites are not damaged by the additive effects of multiple plans or projects.
Likely significant effect	As referred to in Art. 6(3) of the Habitats Directive. Where there is a risk or possibility of an effect being significant. Such a risk exists if it cannot be excluded on the basis of objective information that the plan or project will have

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	significant effects on the site concerned
Maintain or restore	As referred to in the Habitats Directive… *"(a) conservation means a series of measures required **to maintain or restore** the natural habitats and the populations of species of wild fauna and flora at a favourable status as defined in (e) and (i);"*
Mitigation measures	Measures that are aimed at minimising or even cancelling the negative impact of a plan or project, during or after its completion. Mitigation measures are usually proposed with the aim of demonstrating that a plan or project will not have a likely significant effect as set out at Art. 6(3) of the Habitats Directive.; or as a condition to ensure a derogation under Art. 16 of the Habitats Directive is not detrimental to maintaining populations of the species concerned at favourable conservation status in their natural range.
Natura 2000	The European Union wide network of Special Protection Areas, Special Areas of Conservation and Sites of Community Importance.
Natural habitat types of Community interest	As defined in Art. 1(c) of the Habitats Directive: *"means those which, within the territory referred to in Article 2:* *(iv) are in danger of disappearance in their natural range; or* *(ii) have a small natural range following their regression or by reason of their intrinsically restricted area; or* *(iii) present outstanding examples of typical characteristics of one or more of the nine following biogeographical regions: Alpine, Atlantic, Black Sea, Boreal, Continental, Macaronesian, Mediterranean, Pannonian and Steppic.* *Such habitat types are listed or may be listed in Annex I;"*
Natural range	As referred to in the Habitats Directive identifying the natural range of a habitats or species. The Natural Range is used in the definition of 'habitats' and 'species' in relation to their Conservation Status.
Plan or project	As referred to at Art. 6 of the Habitats Directive. It is not defined in the Directives, but is to be interpreted widely. Natura 2000 Guidance document sets out that it is a: *"very broad definition (see Annex I, point 6), which is not limited to physical construction. For example, a significant intensification of agriculture which threatens to damage or destroy the semi-natural character of a site may be covered."*

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	The guidance sets out that Plans includes land-use plans and sectoral plans
Pollution or deterioration	As referred to at Art. 4(4) of the Birds Directive. *"In respect of the protection areas referred to in paragraphs 1 and 2, Member States shall take appropriate steps to avoid **pollution or deterioration** of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid **pollution or deterioration** of habitats."* But note Art. 7 of the Habitats Directive which applies Art. 6(2),(3) and (4) of the Habitats Directive which replaces the obligations in Art. 4(4) of the Birds Directive.
Population level	As referred to in the Birds Directive in relation to the overall numbers of a species in the community AND As referred to in the Habitats Directive in relation to a population level within a site.
Precautionary Principle	The precautionary principle is detailed in Article 191 of the Treaty on the Functioning of the European Union (EU). It aims at ensuring a higher level of environmental protection through preventative decision-taking in the case of risk precautionary principle shall be informed by three specific principles: • the fullest possible scientific evaluation, the determination, as far as possible, of the degree of scientific uncertainty; • a risk evaluation and an evaluation of the potential consequences of inaction; • the participation of all interested parties in the study of precautionary measures, once the results of the scientific evaluation and/or the risk evaluation are available It is applicable in relation the application of the Habitats and Birds Directives.
Preserve, maintain or re-establish	As defined in the Birds Directive, Art. 3: The definition primarily relates to the following measures: *"(a) creation of protected areas;* *(b) upkeep and management in accordance with the ecological needs of habitats inside and outside the protected zones;* *I re-establishment of destroyed biotopes;*

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	(d) creation of biotopes."
Priority natural habitat type	As defined in Art 1. (d) of the Habitats Directive: *"priority natural habitat means natural habitat types in danger of disappearance, which are present on the territory referred to in Article 2 and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority natural habitat types are indicated by an asterisk (*) in Annex I;"*
Priority species	As defined in Art 1. (h) of the Habitats Directive: *"means species referred to in (g) (i) for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2; these priority species are indicated by an asterisk (*) in Annex II"*
Ramsar Site	Sites listed as a wetland of international importance under the 'Ramsar Convention'. In England and Wales, as a matter of policy, Ramsar sites are to be treated the same way as Special Areas of Conservation and Special Protections Areas
Regularly occurring migratory species not listed in Annex I	As referred to at Art. 4(2) of the Birds Directive. *"2. Member States shall take similar measures for **regularly occurring migratory species** not listed in Annex I, bearing in mind their need for protection in the geographical sea and land area where this Directive applies, as regards their breeding, moulting and wintering areas and staging posts along their migration routes. […]"*
Reproductive rate	The reproductive rate of birds as referred to in the Birds Directive Art. 7(1).
Site integrity	The integrity of the site is defined in the Managing Natura 2000 sites guidance as: *"the coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and/or populations of species for which the site is or will be classified"* Integrity is to be considered over the short, medium and long term
Site of Community importance	As defined in Art. 1 (k) of the Habitats Directive: *"Site of Community importance means a site which, in the biogeographical region or regions to which it belongs, contributes significantly to the maintenance or restoration at a favourable conservation status of a natural habitat type in*

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	Annex I or of a species in Annex II and may also contribute significantly to the coherence of Natura 2000 referred to in Article 3, and/or contributes significantly to the maintenance of biological diversity within the biogeographic region or regions concerned. *For animal species ranging over wide areas, sites of Community importance shall correspond to the places within the natural range of such species which present the physical or biological factors essential to their life and reproduction;"* Sites of Community Importance are adopted by member states in accordance with Article 4 of the Habitats Directive
Special Area of Conservation	Areas designated as Sites of Community Importance must be designated as Special Areas of Conservation within 6 years of designation in accordance with Art. 4(4) of the Habitats Directive. As defined in Art. 1 (l) of the Habitats Directive, Special Areas of Conservation: *"means a site of Community importance designated by the Member States through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for the maintenance or restoration, at a favourable conservation status, of the natural habitats and/or the populations of the species for which the site is designated;"*
Special Protection Area	Areas designated in accordance with Art. 4 of the Birds Directive providing special conservation measures to protect habitats for vulnerable species (as listed in Annex I to the Birds Directive) and to regularly occurring migratory species
Species of Community interest	As defined in Art. 1 (g) of the Habitats Directive: *"means species which, within the territory referred to in Article 2, are:* *i) endangered, except those species whose natural range is marginal in that territory and which are not endangered or vulnerable in the western palearctic region; or* *(ii) vulnerable, i.e. believed likely to move into the endangered category in the near future if the causal factors continue operating; or* *(iii) rare, i.e. with small populations that are not at present endangered or vulnerable, but are at risk. The species are located within restricted geographical areas or are thinly scattered over a more extensive range; or* *(iv) endemic and requiring particular attention by reason of the specific nature of their habitat and/or the potential impact of their exploitation on their habitat and/or the potential impact*

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	of their exploitation on their conservation status. Such species are listed or may be listed in Annex II and/or Annex IV or V;"
Specimen	As defined in Art. 1 (m) of the Habitats Directive: *"means any animal or plant, whether alive or dead, of the species listed in Annex IV and Annex V, any part or derivative thereof, as well as any other goods which appear, from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be parts or derivatives of animals or plants of those species;"*
Statutory Nature Conservation Body	Defined in regulation 5 of the Habitats Regulations in relation to England and Wales - Natural England (England) - Natural Resources Body for Wales (Wales)
Strategic Environmental Assessment	The process by which plans and programmes that are likely to have a significant effect on the environment are assessed prior to their adoption as governed by European Directive 2001/42/EC.
Strict protection	As referred to at Art. 12 and Art. 13 of the Habitats Directive requiring a system of strict protection prohibiting specified activities in relation to animal and plant species listed at Annex IV of the directive
Structure and functions	Of the natural habitats type as referred to in the definition of the 'conservation of a natural habitat' at Art. 1(e) of the Habitats Directive. *"(e) conservation status of a natural habitat means the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2."*
Suitable Alternative Natural Green Space	Green open space provided to mitigate the harmful effects of new development on Special Protection Areas.
Surveillance	Referred to at Art. 11 of the Habitats Directive. *"Member States shall undertake **surveillance** of the conservation status of the natural habitats and species referred to in Article 2 with particular regard to priority natural habitat types and priority species."*
Typical species	As referred to in Art. 1(e) of the Habitats Directive in relation to the typical species of a natural habitat.

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	*(e) conservation status of a natural habitat means the sum of the influences acting on a natural habitat and its **typical species** that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within the territory referred to in Article 2.*

F. Implementation Table

The tables below are provided as a guide as to how the Habitats and Birds Directives have been transposed into UK law.

The majority of the cases currently in the database (that are not EU cases) relate to decisions made under legislation for England and Wales, and so the table produced currently relates to England and Wales only.

However, the majority of the provisions of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 and the Wildlife and Countryside Act 1981 also apply to Scotland and Northern Ireland.

These tables have been produced as a general guide, and are provided for assistance only. They are not indented to be definitive lists. They identify some of the most relevant provisions of the Habitats and Birds Directives and their transposition into UK law. There are further regulations and sections which also transpose elements of the Directives; and there are additional Acts and Regulations which also implement elements of the Directives, for example the Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006.

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Habitats Directive

Key to Table

HR: The Conservations of Habitats and Species Regulations 2010

OMR: The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

WCA: The Wildlife and Countryside Act 1981

Habitats Directive Article	Transposition
Article 2	**HR:** 129A **OMR:** 67
Article 4	**HR:** 10; 11; 129A **OMR:** 7; 8; 9; 11
Article 5	**HR:** 2 **OMR:** 10
Article 6	**HR:** 16; 17; 18; 21; 36; 61; 62; 66 **OMR:** 22; 25; 26; 30
Article 7	**HR**: 12A; 12B
Article 10	**HR:** 129A
Article 11	**HR:** 48; 129A **OMR:** 44; 67
Article 12	**HR:** 41; 42; 43; 50; 51 **OMR:** 39; 43; 46; 47

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Article 13	**HR:** 44-46
Article 14	**HR:** 49
Article 15	**HR:** 43 **OMR:** 41
Article 16	**HR:** 53 **OMR:** 40; 49; 72
Article 17	**OMR:** 72

Birds Directive

Key to Table

HR: The Conservations of Habitats and Species Regulations 2010

OMR: The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

WCA: The Wildlife and Countryside Act 1981

Birds Directive Article	Transposition
Article 2	**HR**: 9A
Article 3	**HR:** 9A
Article 4	**HR:** 4; 12A **WCA**: 3
Article 5	**WCA:** 1 **OMR:** 7; 8; 9; 12; 34
Article 6	**WCA**: 6 **OMR:** 37
Article 8	**WCA**: 5 **OMR**: 36
Article 9	WCA: 4; 5 **OMR:** 35; 49

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